



14/11/07
26/12/08

HIGH COURT OF CHHATTISGARH AT BILASPUR

Division Bench

Coram : Hon'ble Shri Jagdish Bhalla, Ag. C.J. and
Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Writ Appeal (P.R.) No. 6823/2007

W.A. 290/07

Appellants
Petitioner

1. Santuram Yadav, S/o Shri Kangluram Yadav, Aged about 40 years, R/o Village Berla, Post Berla, District-Durg (C.G.)
2. Santosh Kumar Yadav, S/o Shri Gokul Yadav, Aged about 37 years, R/o Village Thankhamaria, Post Saja, District Durg (C.G.)

versus

Respondents

1. The Secretary, Krishi Upaj Mandi Samiti, Bemetara, District Durg (C.G.)
2. The Chairman/President Krishi Upaj Mandi Samiti, Bemetara, District Durg (C.G.)

WRIT APPEAL UNDER SECTION 2(1) OF THE CHHATTISGARH
(APPEAL TO THE DIVISION BENCH) ACT 2006.

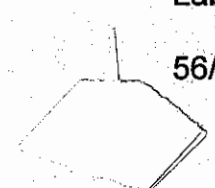
Present : Shri P. Sam Koshy, counsel for the appellants.

ORAL ORDER

(Passed on 6th of November, 2007)

The following oral order of the Court was passed by
Hon'ble Shri Jagdish Bhalla, Acting C.J. :

This writ appeal is directed against the judgment and order dated 2.11.2006 passed by learned Single Judge in Writ Petition No. 5508 of 2006 whereby affirming the award dated 8.8.2006 passed by the Labour Court, Durg under I.D. Act in Case No. 56/I.D.Act/Reference/2005 dismissing the claim of the appellants herein





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for reinstatement in the service with wages, the learned Single Judge dismissed the writ petition.

Shri P. S. Koshy, learned counsel for the appellants submitted that writ petition was filed under Article 227 of Constitution of India, and therefore, it attracts the original jurisdiction conferred upon the High Court by the Constitution of India.

Before coming into existence of The Chhattisgarh High Court (Appeal to Division Bench) Acts, 2006, the intra court appeals were being filed under the provisions of Madhya Pradesh Uchcha Nyayalaya (Letters Patent Appeals) Sampati) Adhiniyam 1981 (herein after referred to "Adhiniyam"). The said provisions of Letters patent Appeals was repealed by the Chhattisgarh High Court (Appeal to Division Bench) Act, 2006 (No.1 of 2007) and by the same notification Chhattisgarh High Court Rules, 2006 came into being wherein the provision of appeal is provided under Rule 2 which reads as under:

"2. Appeal to the Division Bench of the High Court from a Judgment or order of one judge of the High Court made in exercise of original jurisdiction :- (1) An appeal shall lie from a judgment or order passed by one Judge of the High Court in exercise of original Jurisdiction under Article 226 of the Constitution of India, to a Division Bench comprising of two Judges of the same High Court:

Provided that no such appeal shall lie against an interlocutory order or against an order passed in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

(2) An appeal under sub-section (a) shall be filed within 45 days from the date of order passed by a single Judge.

Provided that any appeal may be admitted after the



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prescribed period of 45 days, if the petitioner satisfied the Division Bench that he had sufficient cause for not preferring the appeal within such period.

Explanation:- The fact that the petitioner was misled by any order, practice or judgment of the High Court in ascertaining the prescribed period may by sufficient cause within the meaning of this sub-section."

From the perusal of the above and in the light of judgment passed by this Court in **Chhattisgarh Chemical Mill Mazdoor Sangh v. Director Keystone Industries Ltd. and two others** in Writ Appeal (PR) No. 3486 of 2007 on 13th July 2007 wherein it is already held that the intra court appeal does not lie against the judgment of the case under Article 227 of Constitution of India.

In the light of above, the appeal is not maintainable and accordingly it is dismissed as not maintainable.

Sd/-
Acting Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge

An'ani